

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2005-231-C - ORDER NO. 2006-7  
JANUARY 13, 2006

IN RE: Application of Vanco Direct USA, LLC for a	)	ORDER
Certificate of Public Convenience and	)	GRANTING
Necessity to Provide Resold Interexchange	)	CERTIFICATE,
and Local Exchange Communications	)	APPROVING MODIFIED
Services, for Modified Alternative Regulation	)	ALTERNATIVE
for Certain Interexchange Services and for	)	REGULATION AND
Flexible Rate Structure for Local Exchange	)	FLEXIBLE
Service Offerings.	)	REGULATION
	)	

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of Vanco Direct USA, LLC (“Vanco” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold interexchange and local exchange communications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2004) and the general regulatory authority of the Commission. By its Application, Vanco also requests modified alternative regulation of its business services offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C as modified by Order No. 2001-997, flexible regulation of its local service offerings pursuant to Order No. 98-165 in Docket No. 1997-467-C, and requests waiver of certain Commission regulations.

The Commission's Docketing Department instructed Vanco to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of Vanco and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Vanco complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was filed by the South Carolina Telephone Coalition (SCTC). Subsequent to the intervention, Vanco and SCTC reached a Stipulation, attached hereto as Order Exhibit 1.

A hearing was convened on December 5, 2005, at 2:30 p.m. in the Commission's Meeting Room, Columbia, South Carolina, before David Butler, Hearing Examiner. Vanco was represented by John J. Pringle, Jr., Esquire. The Office of Regulatory Staff (ORS) was represented by Benjamin Mustian, Esquire. Prior to the presentation of testimony, it was announced that Vanco and ORS had reached a settlement. The Settlement Agreement is attached hereto as Order Exhibit 2. The parties also announced that they had reached an agreement on revisions to the Company's local and interexchange tariffs. Revised tariffs were submitted into the record as a hearing exhibit.

Ted Raffetto, Manager/CEO of the Company, appeared and testified in support of the Application. The record reveals that Vanco is incorporated in Delaware as a limited liability company and registered to transact business in South Carolina as a foreign corporation. According to Mr. Raffetto, Vanco proposes to operate as a reseller of private line services to business customers.

Vanco's services will be offered twenty-four hours per day, seven days a week. It does intend to employ sales agents. Mr. Raffetto explained the Company's request for authority, and the record further reveals the Company's services, operations, and marketing procedures.

Mr. Raffetto also discussed Vanco's technical, financial, and managerial resources to provide the services for which it seeks authority to provide. Mr. Raffetto offered that Vanco possesses sufficient financial resources to support its operations in South Carolina. With regard to management and technical capabilities, the Company has not been denied a license in any of the states in which it has applied, has had no licenses revoked in any jurisdictions, nor has it been the subject of any investigations by any governmental regulatory agencies. The Company's Application and Mr. Raffetto's testimony both evidence that Vanco's management team has extensive experience in both marketing and communications. Mr. Raffetto also testified that Vanco will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders.

Mr. Raffetto offered that approval of Vanco's Application would serve the public interest by increasing the level of competition in South Carolina. Mr. Raffetto, on behalf of the Company, requests a waiver of 26 S.C. Code Ann. Regs. 103-610 and to be allowed to keep the Company's books at its headquarters in Illinois. Further, the Company requests an exemption from record keeping policies that require maintenance of financial records in conformance with the Uniform System of Accounts (USOA), including so much of 26 S.C. Code Ann. Regs. 103-611 as may codify that requirement. Vanco maintains its books in accordance with Generally Accepted Accounting Principles

(GAAP). In addition, the Company requests that it not be required to publish local exchange directories, and therefore requests waiver of 26 S.C. Code Ann. Regs. 103-631. Lastly, Vanco requests a waiver of 26 S.C. Code Ann. Regs. 103-612.2.3, which would require Vanco to file a map showing its certificated area.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Vanco is organized under the laws of the State of Delaware as a limited liability company and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.
2. Vanco has no reported record of violations of regulatory laws or regulations in the jurisdictions in which it is currently operating.
3. Vanco desires to operate as a reseller of interexchange and local telecommunications services in South Carolina, providing private line services to businesses.
4. We find that Vanco possesses the managerial experience and capability to operate as a non-facilities based reseller of interexchange and local services in South Carolina.
5. We find, based on the financial records and balance sheets submitted by the Company, that Vanco possesses sufficient financial resources to provide the services as described in its Application.

6. We find that the issuance of a Certificate of Public Convenience and Necessity to Vanco to operate as a reseller of interexchange and local telecommunications services in South Carolina would be in the best interest of the citizens of South Carolina by increasing the level of competition in South Carolina, by providing an alternative for private line telecommunications services, and by increasing consumer awareness of options and services available, thereby encouraging growth and success of competitive services.

7. Vanco has no plans to maintain offices in South Carolina and requests a waiver of 26 S.C. Code Ann. Regs. 103-610. The Commission finds Vanco's requested waiver reasonable and understands the difficulty presented to Vanco should the waiver not be granted. Further, we find that a waiver of 26 S.C. Code Ann. Regs. 103-610 to be in the public interest. We also believe that exemption from the policies that would require the Company to keep its records under the USOA is reasonable, including so much of 26 S.C. Code Ann. Regs. 103-611 as may require the usage of USOA. Additionally we find that waivers of 26 S.C. Code Ann. Regs. 103-631 and 103-612.2.3 are reasonable and in the public interest.

8. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280(B)(1) (Supp. 2004).

9. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280(B)(3) (Supp. 2004).

10. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280(B)(4) (Supp. 2004).

11. The Commission finds that services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280(B)(2) (Supp. 2004).

12. The Commission finds that the provision of local exchange service by the Company “does not otherwise adversely impact the public interest.” S.C. Code Ann. Section 58-9-280(B)(5) (Supp. 2004).

13. Following execution of a Stipulation with intervenor South Carolina Telephone Coalition (SCTC), the SCTC withdrew its opposition to the Application.

#### **CONCLUSIONS OF LAW**

1. The Commission concludes that Vanco possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that Vanco will participate in the support of universally available telephone service at affordable rates to the extent that Vanco may be required to do so by the Commission.

3. The Commission concludes that Vanco will provide services which will meet the service standards of the Commission.

4. The Commission concludes that approval of Vanco’s Application to provide intrastate telecommunications services within South Carolina will serve the

public interest by enhancing competition in the State of South Carolina by offering additional service offerings to South Carolina's consumers and by providing for efficient use of existing telecommunications resources.

5. The Commission concludes that the provision of telecommunications service by Vanco will not adversely impact the public interest.

6. The Commission concludes that the issuance of the authority to provide intrastate interexchange telecommunications services as requested by Vanco and as set forth in its Application, is in the best interests of the citizens of the State of South Carolina.

7. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to Vanco to provide intrastate interexchange and local telecommunications services, including the provision of resold private line service.

8. The Commission concludes that Vanco's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T

Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain “operator-assisted calls” where a customer uses a local exchange carrier’s calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission.

9. The Commission concludes the Company’s local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company’s competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, the Company’s local exchange service tariff filings are presumed valid upon filing, subject to the Commission’s right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended

pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

10. We conclude that Vanco's request for waiver of 26 S.C. Code Ann. Regs. 103-610 should be granted as strict compliance with the regulation would cause undue hardship on Vanco. We also grant exemption from the policies requiring the use of USOA, and the applicable provisions of 26 S.C. Code Ann. Regs. 103-611. In addition, we grant waiver of 26 S.C. Code Ann. Regs. 103-631 which requires publication of a local telephone directory, and 26 S.C. Code Ann. Regs. 103-612.2.3, which would require Vanco to file with the Commission a map showing its certificated area.

11. The Settlement Agreement between the parties should be approved.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to Vanco to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission, as well as to provide local telecommunications services within the State of South Carolina.

2. The Company's rate designs for its products shall comport to those designs described in Conclusions of Law above.

3. If it has not already done so by the date of issuance of this Order, Vanco shall file its revised tariff and an accompanying price list for any applicable rates within

thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations, as well as the provisions of the Settlement Agreement and the revised tariffs filed as a hearing exhibit.

4. Vanco is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

5. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

6. Vanco shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Vanco changes underlying carriers, it shall notify the Commission in writing.

7. With regard to the origination and termination of toll calls within the same LATA, Vanco shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, Vanco shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

8. Vanco shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Vanco shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at [www.psc.sc.gov/reference/forms.asp](http://www.psc.sc.gov/reference/forms.asp). The title of this form is "Annual Report Telecommunications Company." This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1<sup>st</sup>**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31<sup>st</sup>** of each year. The proper form for filing gross receipts information can be found at the ORS website at [www.regulatorystaff.com](http://www.regulatorystaff.com), and the appropriate form is entitled "Gross Receipts Form."

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Vanco shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized

Utility Representative Information” form can be found at the Commission’s website at [www.psc.sc.gov/reference/forms.asp](http://www.psc.sc.gov/reference/forms.asp); this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

10. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

11. At the hearing, Vanco requested a waiver of 26 Code Ann. Regs. 103-610 (Supp. 2004), which requires that records required by the Commission’s Rules and Regulations be maintained in South Carolina. The record reveals that Vanco’s principal headquarters will be located outside of South Carolina. Vanco requests permission to maintain its books and records at its headquarters in its home office. The Commission finds Vanco’s requested waiver reasonable and understands the difficulty presented to Vanco should the waiver not be granted. The Commission therefore grants the requested waiver that Vanco be allowed to maintain its books and records at its principal headquarters. However, Vanco shall make available its books and records at all reasonable times upon request by the Office of Regulatory Staff, and Vanco shall promptly notify the Commission and ORS if the location of its books and records changes.

12. Vanco also requests that it be exempt from record keeping policies that require a carrier to maintain its financial records in conformance with the Uniform System of Accounts (USOA), and any provisions of 26 S.C. Ann. Regs. 103-611 that may require the use of the USOA. The USOA was developed by the FCC as a means of

regulating telecommunications companies subject to rate base regulation. As a competitive carrier, Vanco maintains its book of accounts in accordance with Generally Accepted Accounting Principles (GAAP). GAAP is used extensively by interexchange carriers. Accordingly, Vanco requests an exemption from the USOA requirements and the applicable regulation. We grant the Company's request for the reasons stated above. We also grant the Company's request to waive 26 S.C. Code Ann. Regs. 103-631 and 103-612.2.3, because of the unusual difficulty that the Company would have in complying with these regulations.

13. Each telecommunications company certified in South Carolina is required to file annually the Intrastate Universal Service Fund (USF) worksheet. This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than **August 15th** with the Commission and ORS.

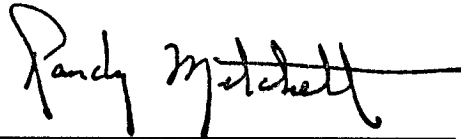
14. Vanco is further required to comply with, in accordance with its Application and under Title 23, Chapter 47 of the South Carolina Code Annotated, which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911" system or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Vanco to contact the appropriate authorities regarding 911 service in the counties and cities where the company will be operating. Contact with the appropriate 911 service authorities is to be

made before beginning local telephone service in South Carolina. Accompanying this Order is a memo from the State 911 Office of the Office of Research & Statistics of the South Carolina Budget and Control Board. This memo provides information about contacting County 911 Coordinators. By this Order and prior to providing local telephone services in South Carolina, Vanco shall contact the 911 coordinator in each county (and city where the city has its own 911 system) and shall provide information regarding the Company's operations as required by the 911 system.

15. The Settlement Agreement between the parties is hereby approved.

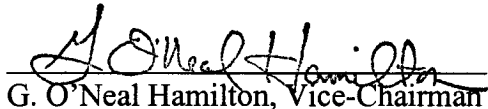
16. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Randy Mitchell, Chairman

ATTEST:

  
G. O'Neal Hamilton, Vice-Chairman

(SEAL)

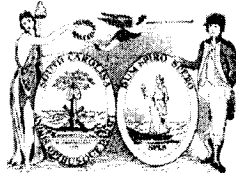
STATE OF SOUTH CAROLINA  
*State Budget and Control Board*

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Bobby Bowers  
DIRECTOR

August 2, 2004

To: Telephone Companies New to South Carolina

In an effort to continue providing quality emergency services to the citizens of South Carolina, the State 911 Office requests that before beginning telephone services in a county, you contact the 911 Coordinator in that county. This will allow both parties to obtain important information about providing 911 services in that county. If you have already begun services, then contact the coordinator as soon as possible.

A list of County 911 Coordinators can be found on the South Carolina E911 homepage at [www.ors.state.sc.us/digital/E-911.ASP](http://www.ors.state.sc.us/digital/E-911.ASP). If you have any questions related to 911 in South Carolina, you may contact E911 Coordinations at the Office of Research and Statistics at 803-734-3883. The person responsible for this can also be found on the 911 homepage. Please be aware that some cities may have their own E911 systems, these are also listed on the 911 homepage. These city coordinators will need to be contacted in addition to the county coordinators.

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BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

Docket No. 2005-231-C

RECEIVED  
2005 SEP 16 PM 4:04  
SC PUBLIC SERVICE  
COMMISSION

Re: Application of Vanco Direct USC, LLC )  
for a Certificate of Public Convenience and )  
Necessity to Provide Resold Interexchange )  
and Local Exchange Telecommunications )  
Services in the State of South Carolina )  
\_\_\_\_\_ )

**STIPULATION**

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Vanco Direct USA, LLC ("Vanco Direct") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Vanco Direct's Application. SCTC and Vanco Direct stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Vanco Direct, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Vanco Direct stipulates and agrees that any Certificate which may be granted will authorize Vanco Direct to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. Vanco Direct stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Vanco Direct stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Vanco Direct provides such rural incumbent LEC and the Commission with written notice of

*OK J.B. Duke*

its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Vanco Direct acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Vanco Direct stipulates and agrees that, if Vanco Direct gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Vanco Direct will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Vanco Direct acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Vanco Direct, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

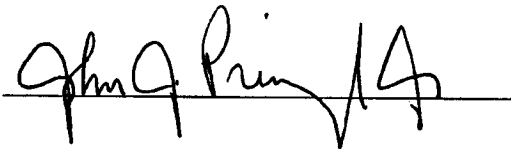
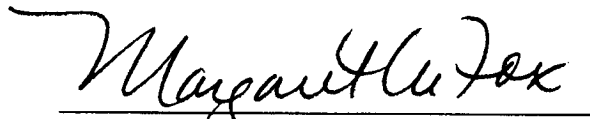
8. Vanco Direct agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. Vanco Direct hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 16TH day of SEPTEMBER,  
2005.

Vanco Direct USA, LLC

South Carolina Telephone Coalition:

A handwritten signature in black ink, appearing to read "John G. Pring, Jr.", written over a horizontal line.A handwritten signature in black ink, appearing to read "Margaret M. Fox", written over a horizontal line.

M. John Bowen, Jr.  
Margaret M. Fox  
McNAIR LAW FIRM, P.A.  
Post Office Box 11390  
Columbia, South Carolina 29211  
(803) 799-9800

Attorneys for the South Carolina Telephone  
Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies  
for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.  
Chesnee Telephone Company  
Chester Telephone Company  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company  
Home Telephone Company, Inc.  
Lancaster Telephone Company  
Lockhart Telephone Company  
McClellanville Telephone Company  
Norway Telephone Company  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
Pond Branch Telephone Company  
Ridgeway Telephone Company  
Rock Hill Telephone Company  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**

**DOCKET NO. 2005-231-C**

**October \_\_, 2005**

**IN RE:**

Application of Vanco Direct USA, )  
LLC for a Certificate of Public )  
Convenience and Necessity to Provide )  
Resold Interexchange and Local )  
Exchange Communications Services, )  
And for Modified Alternative )  
Regulation for Certain Interexchange )  
Services and for Flexible Rate )  
Structure for Local Exchange Service )  
Offerings )  
\_\_\_\_\_ )

**SETTLEMENT AGREEMENT**

This Settlement Agreement ("Settlement Agreement") is made by and among the Office of Regulatory Staff ("ORS") and Vanco Direct USA, LLC ("Vanco" or "the Company") (collectively referred to as the "Parties" or sometimes individually as "Party");

WHEREAS, on August 3, 2005, Vanco filed its application requesting a Certificate of Public Convenience and Necessity to provide resold interexchange and local exchange communications services and for modified alternative regulation for certain interexchange services and for flexible rate structure for local exchange services pursuant to Order No. 98-165 in Docket No. 97-467-C and that all of its telecommunications offerings be regulated as described in its application pursuant to the procedures set out in Commission Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C as modified by Commission Order No. 2001-997 in Docket No. 2000-407-C;

WHEREAS, on August 16, 2005, the Public Service Commission of South Carolina (the "Commission") issued a notice of hearing and set return dates for the hearing in the above captioned matter scheduled to be heard before a Hearing Examiner on October 24, 2005;

WHEREAS, on October 21, 2005, Vanco requested a continuance of the October 24, 2005, hearing which was granted;

WHEREAS, on November 23, 2005, Vanco requested, and the Commission granted, a waiver of the one hundred twenty day deadline set forth in S.C. Code Ann. §58-9-280(B);

WHEREAS, on November 23, 2005, the Hearing Examiner set this matter for hearing on December 5, 2005;

WHEREAS, the South Carolina Telephone Coalition ("SCTC") filed a Petition to Intervene in this matter on August 26, 2005;

WHEREAS, on September 16, 2005 the SCTC filed a stipulation between SCTC and Vanco;

WHEREAS, on September 21, 2005, Vanco pre-filed testimony of Ted Rafetto with the Commission;

WHEREAS, the purpose of this proceeding is to review the application filed by Vanco and its request for a Certificate of Public Convenience and Necessity;

WHEREAS, since the filing of the notice, ORS has conducted a review of the technical, managerial and financial expertise of the company to provide such services;

WHEREAS, ORS has reviewed the application and the financial data provided by the Company of Vanco and of an affiliated corporation, Vanco UK Limited, and has calculated certain performance ratios based upon information provided by the Company;

WHEREAS, ORS has investigated the services to be offered by Vanco and its intended customer service plans;

WHEREAS, ORS has reviewed the proposed tariffs submitted by Vanco;

WHEREAS, as a result of its investigations, ORS has determined a) Vanco intends to offer resold private line services to business customers in the geographic areas served by BellSouth; b) the officers of Vanco possess sufficient technical and managerial abilities to adequately provide the services applied for; c) Vanco UK Limited, will be the primary funding source for the applicant during its initial operations; d) Vanco will not require customer deposits nor receive payments in advance of providing service and, as such, the financial ability of Vanco to provide these services is adequate and the public interest is not jeopardized; e) certain revisions should be made to Vanco's proposed tariffs in order to comply with Commission statutes and regulations; f) the services provided by Vanco will meet the service standards required by the Commission; g) the services to be offered by the Applicant will not adversely impact the availability of affordable local exchange service; h) to the extent it is required to do so by the Commission, Vanco will participate in the support of universally available telephone service at affordable rates; and i) the provision of local and interexchange services by Vanco will not adversely impact the public interest;

WHEREAS, to ensure compliance with the Commission's statutes and regulations, the Parties have agreed to the following comprehensive settlement of all issues in this docket;

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions;

1) The Parties agree to stipulate into the record before the Commission this Settlement Agreement. The Parties also stipulate to the pre-filed testimony of Vanco Witness Ted Rafetto who will be presented without cross-examination by ORS;

2) Vanco agrees to submit into the record before the Commission revised tariffs in accordance with the ORS recommendations;

3) The Parties agree that the Company should be granted a Certificate of Public Convenience and Necessity to provide resold interexchange and local exchange communications services;

4) ORS does not oppose the Company's request that all of its business service offerings be regulated as described in its application pursuant to the procedures set out in Commission Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C, as modified by Commission Order No. 2001-997 in Docket No. 2000-407-C;

5) ORS does not oppose the Company's request that the Commission allow it to employ a flexible local exchange rate structure as described in its application and as first authorized by the Commission in Order No. 98-165 in Docket No. 97-467-C;

6) ORS does not oppose the Company's request for waiver of 26 S.C. Code Ann. Regs. 103-603(3), 103-611, 103-612.2.3, and 103-631;

7) Vanco agrees to resell the services of only those interexchange carriers or local exchange carriers authorized to do business in South Carolina by the Commission. Vanco agrees to notify ORS and the Commission, in writing, if the Company changes underlying carriers;

8) Vanco agrees that the Company will allow an end-user of resold services to access an alternative interexchange carrier or operator service provider if the end-user expresses such a desire;

9) The Company agrees to file necessary financial information with the Commission and ORS for universal service fund reporting, annual reporting and/or gross receipts reporting;

10) The Company agrees to comply with SC Code Ann. Section § 58-9-300 entitled "Abandonment of Service." Additionally, the Company agrees to adhere to the Federal Communication Commission rule 47 C.F.R. § 64.1190 and 64.1130 regarding preferred carrier freezes including the requirement that the form of the written authorization for the institution of

the freeze be a separate or easily separable document. Prior to abandonment of service, the Company shall remove any preferred carrier freeze so as to enable consumers to seamlessly transfer their telephone numbers to another provider;

11) The Company agrees to comply with Title 23, Chapter 47 of the South Carolina Code Annotated, which governs the establishment and implementation of a "Public Safety Communications Center" also known as "911 service." The Company agrees to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating prior to initiating local service in South Carolina and shall provide the 911 coordinator in each county and/or city with information regarding the Company's operations;

12) ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10(B) (added by Act 175). S.C. Code § 58-4-10(B)(1) through (3) reads in part as follows:

... 'public interest' means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes the Settlement Agreement reached among the Parties serves the public interest as defined above;

13) The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and to take no action inconsistent with its adoption by the Commission. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any

Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

14) The Parties agree that signing this Settlement Agreement will not constrain, inhibit, impair, or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement without penalty or obligation.

15) This Settlement Agreement shall be interpreted according to South Carolina law.

16) The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing its signature or by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and e-mail signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

WE AGREE:

**Representing the Office of Regulatory Staff**



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WE AGREE:

**Representing Vanco Direct USA, LLC**



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